

SENATE BILL NO. 246

BY SENATORS CHEEK, NEVERS AND THOMPSON AND REPRESENTATIVE LIGI

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To enact Part XXIX-A of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1299.97.1 through 1299.97.4, relative to the Electronic Health Records Loan Program; to provide findings and purpose; to provide definitions; to facilitate access to funding for acquisition and implementation of certified electronic health record technology by health care providers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XXIX-A of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1299.97.1 through 1299.97.4, is hereby enacted to read as follows:

PART XXIX-A. ELECTRONIC HEALTH RECORDS LOAN PROGRAM ACT

§1299.97.1. Short title

This Part shall be known as and may be cited as the "Electronic Health Records Loan Program."

§1299.97.2. Legislative findings; purpose

The legislature finds that:

(1) Through the state's health care reform efforts, it has been recognized that Health Information Technology (HIT) and Health Information Exchange (HIE) are critical to improving and evaluating the quality of health care delivered to the citizens of Louisiana across the full spectrum of service delivery. The state has made significant investments in HIT that should be

1 leveraged and built upon while continuing to address the low adoption rate of
2 HIT by providers statewide.

3 (2) The state and federal governments have recognized that the use of
4 an interoperable electronic health record (EHR) is the foundation of HIT
5 adoption and can improve outcomes and reduce costs.

6 (3) In February of 2009, the United States Congress, in enacting the
7 American Recovery and Reinvestment Act of 2009 (ARRA), made a substantial
8 financial commitment to the national expansion of HIT by providing
9 approximately seventeen billion dollars in funding for enhanced Medicare and
10 Medicaid reimbursements to certain providers who demonstrate meaningful use
11 of certified EHR technology, as well as an additional two billion dollars for
12 competitive grants to the states to create regional infrastructure and to provide
13 loans to providers for the purchase and implementation of an EHR.

14 (4) Under ARRA, many of Louisiana's providers will become eligible for
15 enhanced Medicare reimbursement in the federal fiscal year beginning October
16 1, 2010 by becoming a meaningful user of certified EHR technology and will
17 suffer financial consequences for failing to do so in the federal fiscal year
18 beginning October 1, 2014. Additionally, enhanced Medicaid reimbursement
19 will be available to certain providers who are engaged in efforts to adopt,
20 implement, or upgrade certified EHR technology or who are meaningful users
21 of such technology, beginning on a date that has not yet been specified by the
22 federal government.

23 (5) The ARRA's loan program competitive grant provisions are
24 designed to facilitate the widespread adoption of certified EHR technology, thus
25 achieving provider eligibility for the enhanced Medicare and Medicaid
26 reimbursements. The application process requires that the state develop and
27 submit a strategic plan that will be annually updated, and that must include a
28 list of the projects to be assisted through the program, a description of the
29 criteria and methods established for the distribution of funds, the financial
30 status of the loan fund as of the date of submission of the plan and the short-

1 term and long-term goals of the program.

2 (6) In 2007, the state authorized the secretary to enter into a
3 Cooperative Endeavor Agreement ("CEA") with the Rural Hospital Coalition,
4 Inc. (the "Coalition"), for the establishment of the Louisiana Rural Health
5 Information Exchange (LARHIX), a multi-regional health care information
6 exchange. With the funding provided, seven rural hospitals acquired EHR
7 technology and were linked to Louisiana State University Health Sciences
8 Center - Shreveport (LSUHSC-S) via a state-of-the-art integration engine,
9 permitting a panel of specialists to access a rural patient's medical record in
10 real time while consulting with the patient over the telemedicine equipment
11 located at the rural hospital. In 2008, the state entered into a five-year CEA
12 with the Coalition and provided funding to expand the network to seven
13 additional rural hospitals. LARHIX has been honored as a network model with
14 multiple award nominations by national technology organizations.

15 (7) The state is required to meet federal match requirements to secure
16 funding under the ARRA loan program provisions. Once such funding is
17 secured, the state can establish the loan program and thereby make application
18 for ARRA program funds. When established, the loan program will facilitate
19 the expansion of current efforts, including LARHIX, to assist providers in
20 acquiring certified EHR technology. By enacting this legislation, the legislature
21 is providing the department and the secretary with specific authority to
22 facilitate the state's application for ARRA loan program funding and to
23 administer the state's EHR loan program.

24 §1299.97.3. Definitions

25 As used in this Part, the following terms shall have the following
26 meanings unless the context clearly indicates otherwise:

27 (1) "Department" means the Department of Health and Hospitals or its
28 successor in the role of designated state agency under Title XIX of the Social
29 Security Act or any successor Act including, but not limited to, block grants or
30 other funding for medical care of the poor.

1 (2) "Certified EHR technology" means a qualified electronic health
2 record (as defined in Section 3000(13) of the Public Health Service Act) that is
3 certified pursuant to Section 3001(c)(5) of such Act as meeting standards
4 adopted under Section 3004 of such Act that are applicable to the type of record
5 involved.

6 (3) "Secretary" means the secretary of the Department of Health and
7 Hospitals.

8 §1299.97.4. Establishment of the Electronic Health Records Loan Program

9 A. The "Electronic Health Records Loan Program" is hereby created
10 within the department.

11 B.(1) The secretary is hereby authorized to establish the Electronic
12 Health Records Loan Program utilizing such sums that are made available
13 through any one or more of the following:

14 (a) Annual appropriation.

15 (b) A public/private partnership involving financial institutions.

16 (c) Any other method authorized by law.

17 (2) Such funding shall be utilized by the state to satisfy the federal match
18 requirements of the loan program provisions of ARRA.

19 (3) All loan program funds shall be administered by the department
20 pursuant to the provisions of this Part.

21 C. To the extent permitted by law, the debt service associated with loans
22 made to eligible providers shall be serviced from funds received by such
23 providers as enhanced reimbursements under ARRA.

24 D. The department shall assist the state in the preparation of a
25 competitive grant application and any other required submissions to secure
26 funding made available under the ARRA loan program provisions.

27 E. The secretary is authorized to enter into CEAs to facilitate with any
28 entity access to the ARRA loan program funding and to make loans to eligible
29 providers to provide for the acquisition and implementation of certified EHR
30 technology by eligible providers, and where integrated, telemedicine technology.

1 **F. To provide for the expansion and administration of LARHIX and**
2 **other related matters, the secretary shall enter into a CEA with the Coalition,**
3 **the terms of which shall govern the program's loans made available to rural**
4 **hospitals, and with the secretary's approval, to other rural health care providers**
5 **who have elected to partner with rural hospitals in the acquisition of certified**
6 **EHR technology. For purposes of this Subsection and to the extent permitted**
7 **by the ARRA, certified EHR technology will include telemedicine technology**
8 **which such technology is fully integrated with the certified EHR technology**
9 **acquired by the hospital.**

10 **G. The secretary may consult with the Louisiana Healthcare Quality**
11 **Forum in administering this program.**

12 Section 2. This Act shall become effective on July 1, 2009; if vetoed by the governor
13 and subsequently approved by the legislature, this Act shall become effective on July 1,
14 2009, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____